Supreme Court, U.S.
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No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

GENARO GONZALES RIOS,

Petitioner,

v.

DEPARTMENT OF CORRECTIONS,

Respondent.

On Petition For Writ of Certiorari
To The United States Court of Appeals
For The Ninth Circuit

PETITION FOR WRIT OF CERTIORARI

PHILIP A. DeMASSA
Counsel of Record
PHILIP A. DeMASSA APC
2356 Moore Street, Suite 201
San Diego, CA 92110
(619) 294-2777 Telephone
(619) 294-2120 Facsimile
Attorneys for Petitioner

QUESTIONS PRESENTED

1. Is petitioner entitled to a Certificate of Appealability when he has made a facial constitutional claim that material impeachment evidence regarding the sole accuser was concealed from him and which went to the core of the witness' testimony?

2. Is petitioner entitled to a Certificate of Appealability when he has made a facial constitutional claim that his trial counsel was ineffective in failing to use available evidence which impeached the accuser's motive in seeking petitioner and his other explanations, in failing to find an available witness who was allegedly at the shooting scene, in failing to object and present evidence that the "getaway car" was not the same car as the prosecution's photographs depicted, in failing to explain that a witness' purported fear of petitioner was based on what a police officer told him, and for failing to object to bad act evidence?

3. Is petitioner entitled to a Certificate of Appealability to establish actual innocence when the two persons whom the accuser claimed were the ones that shot him and killed another are now legally available and stand ready to prove they were not involved and when the accuser himself is unsure of other critical evidence which tied petitioner to the crimes?

PARTIES TO THE PROCEEDINGS

Petitioner (appellant below) is Genaro Gonzales Rios.

Respondent is the Department of Corrections for the State of California.

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PETITION FOR WRIT OF CERTIORARI

Genaro Gonzales Rios ("petitioner") respectfully petitions for a writ of certiorari to review the judgments of the United States Court of Appeals for the Ninth Circuit denying petitioner a certificate of appealability regarding his writ of habeas corpus entered on February 22, 2005 and denying his petition for rehearing and petition for rehearing en banc entered on March 22, 2005, pursuant to Rule 10 of the Rules of the Supreme Court.

CITATION OF REPORTS OF OPINIONS ENTERED IN THE CASE

The unpublished judgment of the Court of Appeals for the Ninth Circuit issued on February 22, 2005 denying petitioner a certificate of appealability is attached as App. 1. The unpublished order of the Court of Appeals for the Ninth Circuit issued on March 22, 2005 denying petitioner a rehearing and rehearing en banc is attached as App.2 .

The unpublished order of the United States District Court for the Central District of California issued on September 17, 2004 denying petitioner's petition for issuance of certificate of appealability is attached as App.3. The unpublished ("report") and recommendation of the United States Magistrate Judge issued on August 4, 2004 is attached as App. 5.

The order of the California Supreme Court denying petitioner's writ of habeas corpus issued on January 29, 2003 is attached as App. 67. The unpublished Superior Court of California County of Orange statement of